

FILED

JUL 05 2018

MICHAEL GANS  
CLERK OF COURT

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF ARKANSAS

DAVID A. STEBBINS

APPELLANT

VS.

CASE NO. 18-2441

KENNETH HIXSON, DAVID GLOVER, APPELLEE  
PHILLIP WHITEAKER, AND THE STATE OF ARKANSAS

**MOTION FOR APPOINTMENT OF COUNSEL**

Comes now, *pro se* Plaintiff David Stebbins, who hereby submits the following motion for counsel to be appointed in the above-styled action.

1. While, normally, appointment of counsel is in the court's discretion, this is an exception to that case. The Supreme Court has ordered that appointed counsel is mandatory whenever an appellant is challenging a District Court's finding that an appeal is not taken in good faith, the Supreme Court has held that appointment of counsel is mandatory. See *Johnson v. United States*, 352 US 565, 566 (1957) ("a Court of Appeals must, under *Johnson v. Zerbst*, 304 U. S. 458, afford one who challenges that certification [that the appeal is not taken in good faith] the aid of counsel unless he insists on being his own"). See also *Coppedge v. United States*, 369 US 438, 456 (1962) ("The bare application for leave to appeal in forma pauperis seldom furnishes sufficient material for evaluating the weight of the issues involved. For this reason, we have held that in such cases a Court of Appeals must provide the applicant with the assistance of counsel and with a record of


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sufficient completeness to give him full opportunity to show that the appeal is in "good faith").

2. Because this is not in the Court's discretion, I ask that this Court exercise its mandatory duty and appoint counsel in the above-styled action.

So requested on this, the 5<sup>th</sup> day of July, 2018.

A handwritten signature in cursive script, reading "David S. Stebbins". The signature is written in dark ink and is positioned above the printed contact information.

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